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March 26, 1999

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Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth St., N.W.
Washington, D.C. 20554

RECEIVED
MAR 26 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Federal-State Joint Board on Universal Service,
CC Docket No. 96-45

Dear Ms. Salas:

I am writing on behalf of Western Wireless Corp. to notify you of two *ex parte* contacts relating to the proceeding referred to above. My colleague Michele Farquhar and I spoke with Lisa Zaina, Deputy Chief, Common Carrier Bureau, regarding this proceeding on March 24, 1999; and I had a telephone conversation about the proceeding on March 23 with Charles Keller of the Accounting Policy Division, Common Carrier Bureau.

During both of these conversations, we discussed matters addressed in Western Wireless's previously-filed comments in this proceeding, as well as positions outlined in the enclosed document. We also discussed the following issues:

- In order to ensure that *all* universal service providers can participate on a fair and equitable basis in a workable, competitively and technologically neutral universal service program, the Commission should not be reluctant to delay making a decision by a few months, if necessary.
- Wireless carriers are having difficulties in getting designated as eligible telecommunications carriers ("ETCs"), which will slow wireless carriers' entry into rural markets as competitive universal service providers.
- A minimum local usage requirement would be unnecessary and would violate the goals of technological and competitive neutrality.

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- To enable prospective competitive entrants to target particular rural areas for entry, high-cost funding should be distributed on a geographically disaggregated basis (*e.g.*, by wire centers), rather than on an averaged basis such as study areas or statewide.
- While ideally, high-cost funding should *not* be limited to a single line per household, the Commission may be inclined to impose such a limitation due to concerns about an excessively large high-cost fund. If so, the Commission should explore competitively neutral ways to do so, such as providing a single subsidy payment per residential household (determined based on service location, consistent with the recent Order in the *Defining Primary Lines* proceeding), and dividing that single subsidy amount equally among all the ETCs that provide local telecommunications service to that household.

Please contact me if you have any questions about this filing.

Respectfully submitted,



David L. Sieradzki
Counsel for Western Wireless Corp.

Enclosures

cc: Lisa Zaina
Charles Keller

Western Wireless Corporation

WHITE PAPER

February 1999

Universal Service and Local Competition: Policy Challenges and Wireless Solutions

- Wireless carriers stand ready to bring competition to the local exchange market and provide consumers -- in *rural* as well as urban areas -- with the benefits of access to a competitive alternative to the incumbent local exchange carriers ("ILECs"), such as lower prices, additional service options, and better quality service.
 - » Competition, however, will not emerge, especially in rural high-cost areas, unless regulators embrace competition and discard antiquated rules and policies that insulate the ILECs from marketplace forces.
- On the surface, universal service reform at the federal and state level promises to bring consumers a choice of service providers for their communications needs. Beneath the surface, however, lurk vestiges of the old system that, unless comprehensively reformed, could stop competition in its tracks and limit the service options available to consumers.
- Western Wireless Corporation ("Western Wireless") is working with federal and state regulators and legislators to establish a truly competitive universal service system that would provide ALL consumers with the benefits of competition.
 - » Western Wireless has prepared this paper to identify the changes necessary to realize the Congressional mandate of a competitive universal service system.

* * * * *

BACKGROUND: Western Wireless and its Universal Service Offerings

Western Wireless provides cellular service and broadband PCS in 23 western states and has applied for eligible telecommunications carrier ("ETC") status to offer "universal service" in rural high-cost areas in 13 states -- Colorado, Kansas, Minnesota, Montana, North Dakota, Nebraska, New Mexico, Nevada, Oklahoma, South Dakota, Texas, Utah, and Wyoming.

Even prior to being designated as an ETC, Western Wireless has been providing universal service to previously unserved consumers in Antelope Valley and Reese Valley, Nevada for more than four years, and recently introduced its new Wireless Residential Service to consumers in Regent, North Dakota. Western Wireless's "*Case Study on Wireless Residential Service*" illustrates the barriers faced by a competitive carrier entering the universal service market.

BACKGROUND: The Impetus for Universal Service Reform

- In the Telecommunications Act of 1996, Congress directed the Federal Communications Commission (“FCC”) and the states to reform the universal service system by replacing the existing patchwork of subsidies that exclusively support the ILECs with a competitively-neutral universal service system that would preserve and advance universal service and allow consumers to realize the benefits of a competitive telecommunications system.
- The FCC, in orders and rules adopted to date, already has correctly recognized, in principle, that universal service support must be:
 - » ***competitively neutral***;
 - » ***explicit***, rather than implicit; and
 - » ***portable*** among carriers, including wireless carriers.
- But many critical decisions remain to be made, both by the FCC and state commissions, to realize this pro-competitive vision of universal service reform.

BARRIERS TO CONSUMERS' ABILITY TO RECEIVE UNIVERSAL SERVICE FROM WIRELESS CARRIERS

Although the FCC and many state commissions have made great strides towards implementing a competitively-neutral universal service system, there remains significant barriers to competitive carriers entering into this market. To realize the Congressional mandate of a competitive universal service system, the following barriers must be eliminated:

- **Barrier #1.** Competitive carriers do not have access to the same level of universal service funding as the ILECs.
- **Barrier #2.** Universal service funding is not immediately available to competitive carriers that offer the supported services.
- **Barrier #3.** Universal service funding must be based upon the cost of service in a specific wire center, not based upon the cost of service averaged over an ILEC's study area as proposed by the Universal Service Joint Board.
- **Barrier #4.** Some states are requiring wireless carriers to be regulated as “LECs” and comply with LEC requirements in order to obtain federal and/or state universal service funding.
- **Barrier #5.** Some ILECs are engaging in anti-competitive conduct, such as not providing essential facilities or refusing to interconnect with prospective competitors.

CHANGES NECESSARY TO COMPLY WITH THE CONGRESSIONAL MANDATE OF A COMPETITIVE UNIVERSAL SERVICE SYSTEM

Wireless and other competitive carriers will not be able to enter the universal service market unless the system is reformed to adhere to the following principles:

Principle #1: All Implicit Subsidies Available To The ILECs Must Be Eliminated.

- Federal and state *implicit* subsidies must be eliminated immediately and a competitively-neutral universal service funding mechanism, such as a forward-looking cost model, should be established to provide explicit funding to carriers serving high-cost areas.
 - » *Until implicit subsidies only available to the ILECs are eliminated and a competitively-neutral universal service funding mechanism is put in place for all carriers, universal service funding must be made available to competitive carriers that provide the services supported by federal and state universal service programs.*
 - » *Specifically, universal service funding based upon the forward looking cost of providing service to consumers should be made available to competitive carriers serving consumers residing in high-cost areas, including areas served by rural telephone companies.*

Principle #2: All Explicit Subsidies Must Be Portable.

- The FCC and state commissions must establish universal service programs that provide for the “portability” of explicit support and that allow competitive carriers to have access to the same dollar amount of support per line as ILECs (both “rural” and non-rural).

Principle #3: Universal Service Funding Must Be Made Available In A Competitively and Technologically Neutral Manner.

- *Universal service support should be computed and distributed based on small geographic areas, such as wire centers or exchanges. Support should not be based upon an ILEC’s “study area,” which is a very large geographical area that typically includes all of an ILEC’s service area within a state.*
 - » Targeting support to high-cost areas is consistent with the 1996 Act’s principle of establishing specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service. 47 U.S.C. Section 254(b)(5).

- » Universal service support based upon the cost of providing service within a geographical area enables incumbents and new entrants to serve the communication needs of consumers in high-cost areas; otherwise, rural consumers will remain dependent upon a system of cross-subsidies that deprives these consumers of access to telecommunications services available to their urban counterparts.
- » Universal service support based upon the averaged cost of providing telephone service within a study area would provide the perverse incentive for carriers to serve only urban areas where the cost of service is low and subsidies, not based upon the cost of service, are available to carriers. A study area approach would not provide sufficient universal service support to carriers desiring to provide service to consumers in high-cost areas, resulting in these consumers' perpetual dependence on the ILEC and the implicit support available through geographic averaging.
- ***Universal service support should be available to carriers that provide the supported services, regardless of the technology used.***
 - » The definition of universal service should be consistent with the federally-established supported services and not include services that only certain carriers are capable of providing. Consumers, not regulators, should decide whether a non-basic telephony service, such as mobility, large calling areas or high-speed data, should be included in a service offering.
- ***All carriers that provide the services supported by universal service should have access to the same amount of high-cost support available within a defined geographic area.***
 - » Universal service support should be available based upon the calculated costs of providing the supported service within a geographical area.
 - » The support available to carriers should not vary based upon the technology used or the actual services provided to a consumer by a carrier.
 - * There is no need for the FCC or states to determine a minimum number of local usage minutes included in the basic supported package – the consumer will decide whether an offering with unlimited local usage and small local calling area is more attractive than an offering with limited local usage and large local calling area.
- ***Universal service support must be provided for primary and second lines to ensure that rural consumers have access to service comparable to their urban counterparts.***

Principle #4: An Efficient Universal Service System.

- A forward-looking cost model based upon the most cost-efficient technology for serving a consumer should be used to calculate the universal service support available to a carrier.
 - » A forward-looking cost model, reflecting both the wireline and wireless cost of providing service, should be used to compute the amount of high-cost support in a given area. The actual amount of support available in a geographical area would be based upon the most cost-efficient – wireline or wireless -- means of providing the supported services.
 - » The FCC tentatively concluded, and the Wireless Cost Model sponsored by Western Wireless conclusively establishes, that it is often less costly to provide service in rural areas using wireless technology.
 - * The Wireless Cost Model estimates the forward-looking cost of providing service over wireless networks. The Wireless Cost Model is designed to be a stand-alone model or can be used as a “module” within the “platform” recently developed by the FCC.

Principle #5: Designate ETCs Based Upon The Defined Statutory Criteria.

- States must designate ETCs based *only* upon the criteria established in the 1996 Act, and must not establish additional criteria for ETC designation.
- The public interest analysis (with respect to the designation of additional ETCs in rural telephone company areas) must focus on the consumer and the benefits that the consumer would realize by the additional ETC entering the market, and should not focus on protecting a certain class of carrier from marketplace forces.

Western Wireless urges the FCC and state regulators to make decisions that promote COMPETITIVE AND TECHNOLOGICAL NEUTRALITY and CONSUMER CHOICE.

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